Supreme Court, U.S.
FILED
SEP 13 1979
MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-308

PROTECTION MARITIME INSURANCE COMPANY, LTD., ET AL.,
PETITIONERS,

v.

JOHN PINO, ET AL.,
RESPONDENTS.

BRIEF IN OPPOSITION TO WRIT OF CERTIORARI

MORRIS D. KATZ
89 State Street
Boston, Massachusetts 02109
742-3863

Blanchard Press, Inc., Boston, Mass. — Law Printers

In the
Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-308

PROTECTION MARITIME INSURANCE COMPANY, LTD., ET AL.,
PETITIONERS,

v.

JOHN PINO, ET AL.,
RESPONDENTS.

BRIEF IN OPPOSITION TO WRIT OF CERTIORARI

To the Honorable, the Chief Justice and the Associate Justices of the Supreme Court of the United States:—

The respondents, John Pino, et al., respectfully pray that a Writ of Certiorari to review the judgment of the United States Court of Appeals for the First Circuit, affirming the judgment of the United States District Court for the District of Massachusetts be denied.

I.

Statement of the Case

This action was originally commenced by a group of seamen-fishermen seeking damages and injunctive relief against a marine insurance company, a marine insurance brokerage company and a marine insurance broker in which the original plaintiffs, here respondents, stated that because they had filed claims for damages for personal injuries against fishing boat companies insured by and through the original defendants, here petitioners, they were the subject of discrimination by the defendants in that insurance premiums placed upon them were much higher than insurance premiums on other fishermen, as a result of which they were unable to find employment on fishing boats. They claimed that this was a tortious interference with existing and prospective maritime employment relationships.

The District Court found that as to eight of these fishermen (originally fourteen plaintiffs) there was justification in their claims and that the defendants, here petitioners, had tortiously interfered with their employment rights.

The defendants appealed to the United States Court of Appeals for the First Circuit and that Court upheld the decision of the District Court. The District Court, in addition to the finding of liability against the defendants had also granted injunctive relief, (1) enjoining the defendants from charging an additional premium with respect to eight of the original plaintiffs and (2) enjoining the defendants from requiring that boat owners file copies of settlement sheets on all trips made by fishing vessels insured by and through them in the port of Gloucester. The Court of Appeals upheld the judgment of the District Court regarding the charging of additional premiums, but reversed the finding that prohibited the filing of so-called "settlement sheets".

II.

Reasons To Deny the Petition

A. The jurisdiction of the Court of Appeals is clearly spelled out in *Carroll* v. *Protection Maritime Insurance Co., Ltd.,* 512 F.2d 4 (1975) and other recent cases in the United States District Court for the District of Massachusetts as well as the Superior Court of the Commonwealth of Massachusetts.

B. With respect to use of injunctive relief in admiralty, the Court of Appeals for the First Circuit, in the *A & R Marine Salvage* v. *McAllister Lighterage Line,* 544 F.2d 551, 553 questioned the previously held view that injunctive relief was not properly available in admiralty. The Court of Appeals in *A & R Marine Salvage* v. *McAllister Lighterage Line, supra,* stated that the rule had been subject to great criticism and that the Supreme Court itself had suggested its demise.

Accordingly, the Court of Appeals found that courts sitting in admiralty may award injunctive relief in accordance with Federal Rule of Civil Procedure 65 in situations where such relief would be appropriate on land. "This is a departure from the traditional rule, but we find no constitutional, statutory or policy reasons of substance for recognizing a continued limitation upon the power of federal courts sitting in admiralty, nor does it seem likely that the Supreme Court would today adhere to the traditional rule. See *Swift & Co. Packers* v. *Compania Columbiana Del Caribe, S.A.,* 339 U.S. 692 (1950). District courts sitting in admiralty, which now operate under virtually the same procedures as they do otherwise, should be able to provide the kind or degree of remedy that will properly and fully redress an injury within their jurisdiction, in keeping with the same principles they would apply in other comparable cases." . . . "where equitable relief is otherwise

proper under usual principles, it will not be denied on the ground that the court is sitting in admiralty."

III.

Conclusion

Wherefore, the respondents respectfully submit that the ruling of the Court below is correct and that the Petition for the Writ of Certiorari be denied.

Respectfully submitted,

Morris D. Katz
89 State Street
Boston, Massachusetts 02109
742-3863